

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TERRELL MCQUEEN,

Plaintiff,

vs.

**9:19-CV-998
(TJM/CFH)**

UNITED STATES OF AMERICA,

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1267, et seq., to Magistrate Judge Christian F. Hummel for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that he suffered a severe eye injury when Bureau of Prisons (“BOP”) medical staff failed to warn him of the dangers of a particular drug and failed to provide him with timely treatment for injuries he suffered.

Judge Hummel’s Report-Recommendation, dkt. # 61, issued on June 29, 2021, recommends that the Court grant Defendant’s motion for summary judgment. Judge Hummel finds that, even if Plaintiff could establish that he properly exhausted his administrative remedies for each of his two claims, he has not produced sufficient evidence to prove that BOP’s employees’ alleged medical malpractice caused the injuries

he claims.

Plaintiff objected to the Report-Recommendation. See dkt. # 64. When a party objects to a magistrate judge's Report-Recommendation, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

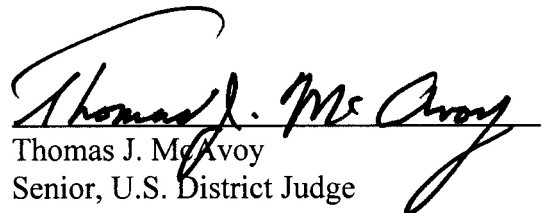
Having undertaken a *de novo* review of the Report-Recommendation and the underlying documents on which Judge Hummel based his decision, the Court has determined to adopt the Report-Recommendation for the reasons stated therein.

Accordingly:

The Report-Recommendation of Judge Hummel, dkt. # 61, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff's objections, dkt. # 64, are hereby **OVERRULED**. Defendant's motion for summary judgment, dkt. # 47, is hereby **GRANTED**, and the Complaint is **DISMISSED**. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: August 27, 2021


Thomas J. McAvoy
Senior, U.S. District Judge